



Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number:

P.C.: 7/28/03 Item: ____

File Number:

GP03-05-03

Council District and SNI Area:

5 – East Valley/680

Major Thoroughfares Map Number:

68

Assessor's Parcel Number(s):

484-44-007, 484-39-001, 484-39-110,
484-39-109, 484-39-003, 484-38-022

Project Manager: Bill Scott

GENERAL PLAN REPORT

2003 Summer Hearing

PROJECT DESCRIPTION:

General Plan Amendment request to change the Land Use/Transportation Diagram from Medium Low Density Residential (8.0 DU/AC) to Public Park/Open Space on a 3.2 acre PG&E transmission line easement located between Capitol Park and Capitol Expressway.

LOCATION: Between Capitol Park at Bambi Lane and Capitol Expressway.

ACREAGE: 3.2 Acres

APPLICANT/OWNER:

City of San Jose/Hans Paul Hager and Pacific Gas and Electric Company (PG&E).

GENERAL PLAN LAND USE / TRANSPORTATION DIAGRAM DESIGNATION:

Existing Designation: Medium Low Density Residential (8.0 DU/AC).

Proposed Designation: Public Park/Open Space.

EXISTING ZONING DISTRICT(S): R-1-8 Residence District, A-Agriculture District and CG Commercial General District.

SURROUNDING LAND USES AND GENERAL PLAN DESIGNATION(S):

North: Capitol Expressway – Expressway.

South: Capitol Park and Goss Elementary School - Public Park/Open Space, Public/Quasi Public.

East: Day Care Facility, Single-Family Detached Residential, Two-Family Residential - Medium Low Density Residential (8.0 DU/AC).

West: Single-Family Detached and Two-Family Residential – Medium Low Density Residential (8.0 DU/AC).

ENVIRONMENTAL REVIEW STATUS:

Mitigated Negative Declaration adopted on July 23, 2003

PLANNING STAFF RECOMMENDATION:

Public Park/Open Space on 0.2 acres and Private Open/Space 3.0 acres.

Approved by:

Date:

PLANNING COMMISSION RECOMMENDATION:

CITY COUNCIL ACTION:

CITY DEPARTMENT AND PUBLIC AGENCY COMMENTS RECEIVED:

- Department of Transportation – The proposed land use change would not result in a long-term traffic impact.
- Department of Public Works – Flood Zone AH; potential for shallow flooding within 100-year flood zone. The site is not in a geologic hazard zone and there are no major access constraints.
- Pacific Gas and Electric – Any proposed development plans, plantings and/or structures should provide unrestricted utility service access.

GENERAL CORRESPONDENCE:

- Letter dated July 11, 2003 from Barton G. Hechtman representing the property owner and expressing concerns primarily regarding potential impacts to the value of the property as a result of the amendment.

ANALYSIS AND RECOMMENDATIONS:**PROJECT DESCRIPTION**

This is a staff initiated General Plan amendment request on a 0.2 mile long segment of a Pacific Gas and Electric (PG&E) transmission line right-of-way. The 3.2 acre amendment site is located between Capitol Park and Capitol Expressway and is within the *East Dobern/Capitol-Goss Neighborhood Revitalization Plan* and the Strong Neighborhoods Initiative *East Valley/680 Communities Neighborhood Improvement Plan* areas. The existing General Plan land use designation for the site is Medium Density Residential (8.0 DU/AC). The original staff proposal was to change the designation to Public Park/Open space on the entire 3.2 acre area. After discussions with the private party who owns an approximately 3.0 acre portion of the property, Planning staff has revised the proposed designation for that portion of the site owned by the private party to Private Open Space. The remainder of the area, owned by PG&E, is proposed for a change to Public Park/Open Space (see Exhibit 1).

During the Fall 2002 hearing, a General Plan text amendment (GP 02-T-4) was approved by the City Council which added the Bambi Trail to the *San Jose 2020 General Plan* Scenic Routes and Trails Diagram. This trail is adjacent and extends from Capitol Park on the south to Capitol Expressway on the north. The proposed Public Park/Open Space and Private Open Space designations are intended to reinforce that text amendment as another step toward the future construction of a linear park located between Story Road and Capitol Expressway consisting primarily of a pedestrian and bicycle trail. The trail would provide a direct pedestrian connection between the East Dobern and Capitol-Goss neighborhoods and would help fill in the gaps of a partially developed park and trail system linking Lo Bue Park to the north and Lake Cunningham to the south. In addition, community is working with the City, PG&E and the Santa Clara Valley Water District to construct a community's much desired footbridge over Lower Silver Creek.

PG&E owns the small portion of the amendment site south of Lower Silver Creek in fee title. This is the portion of the amendment area proposed for the Public Park/Open Space designation. PG&E holds easement rights to the north portion of the amendment site, which is owned by a private property owner who also owns the adjacent Montessori Academy preschool and day care center (see Exhibit 1). It is anticipated that PG&E would retain its utility facilities over the long term and that the private open space uses, such as the play area

associated with the day care facility or some minor wireless communication facilities, could share the easement area with the transmission line., a play area associated with the day care facility and some minor wireless communications facilities, including several panel antennae mounted on the transmission towers. This portion of the site is proposed for designation to Private Open Space.

BACKGROUND

Site and Surrounding Uses

The subject site is an 80-foot wide strip of land used by Pacific Gas and Electric (PG&E) for a transmission line above ground. High-pressure gas lines are located below ground. The site extends for roughly 1,200-linear feet (0.22 mile) between Bambi Lane at Capitol Park on the south and Capitol Expressway on the north. The major portion of the site is vacant. Two PG&E transmission towers and a wireless communication facility equipment shelter are located within the easement. A 6,300 square foot playground used by the adjacent Montessori Academy occupies a portion of the easterly side of the subject site. Dobern Avenue bisects the easement near its center and the southerly end of the subject site includes a short segment of Lower Silver Creek near Bambi Lane. Along this reach, the creek currently exists as a dirt channel. The Santa Clara Valley Water District, however, is planning a substantial flood control and landscaping improvement project for this portion of Lower Silver Creek.

A pedestrian/bicycle bridge is planned for construction within the easement over Lower Silver Creek as one of the top priority action items of the *East Dobern/Capitol Goss Neighborhood Revitalization Plan*. The Department of Parks, Recreation and Neighborhood Services is currently working to resolve some final location and design issues with PG&E, the Santa Clara Valley Water District and a private property owner that would allow the construction of the pedestrian/bicycle bridge to proceed in a location that provides adequate clearance from an overhead transmission line tower, the underground pipelines and the top bank of the creek channel.

The East Dobern and Capitol Goss residential neighborhoods surround the amendment site. Single-family detached homes predominate in these neighborhoods which also contain a few duplexes and the aforementioned Montessori Academy. Capitol Park and Goss Elementary School are located to the south and the site terminates at Capitol Expressway on the north. Lo Bue Park is a linear park located along Sierra Meadow Court across Capitol Expressway to the north. The General Plan designations surrounding the amendment site generally reflect the surrounding land uses. The major portion of the surrounding area is designated Medium Low Density Residential (8.0 DU/AC) on the General Plan Land Use/Transportation Diagram. Capitol Park and the Lower Silver Creek (Santa Clara Valley Water District) right-of-way are designated Public Park/Open Space.

Strong Neighborhoods Initiative (SNI) and Neighborhood Revitalization Plans

The subject site is located within two neighborhood improvement plan areas: the *East Valley/680 Communities Neighborhood Improvement Plan East Valley/680* (SNI) area and the *East Dobern Capitol-Goss Neighborhood Revitalization Plan* (NRP) area.

East Valley/680 SNI and East Dobern/Capitol-Goss NRP

The *East Valley/680 (SNI) Plan* area is located east of downtown San Jose and is generally bounded by Alum Rock Avenue to the north, Ocala Avenue to the south, King Road to the west and White Road to the east. The *East Dobern/Capitol-Goss NRS Plan* area is located within and near the center of the *East*

Valley/680 Communities Plan area. Together, these planning areas are comprised of ten neighborhoods, including Arbuckle, Capitol-Goss, Cassell, Dobern, Dorsa, Lyndale, Nancy Lane, National Hispanic University, Ryan and Sierra. Neighborhood Advisory Committees (NACs) representing a range of community interests guided the development of both the *East Valley/680 Communities Neighborhood Improvement Plan* and the *East Dobern/Capitol Goss Neighborhood Revitalization Plan*. These *Plans* document the community's vision and objectives for improvement in the community. Improving pedestrian circulation and safety particularly for children walking from the East Dobern neighborhood to Goss Elementary School and/or Capitol Park, are among the highest priorities established by the community. Constructing a linear park and trail within the PG&E easement to ultimately link Lo Bue Park in the north and Lake Cunningham Park to the south was also identified by the community as a priority objective to improve pedestrian connections in the larger area.

ANALYSIS

Land Use Compatibility

The proposed amendment supports the community's vision as outlined above and as described in the Policy Consistency section.

The Private Open Space designation is applied to privately owned lands used for low intensity open space uses primarily within the Urban Service Area. Although PG&E is expected to retain an easement over the subject site, the private owner of the major portion of the site has recently indicated a willingness to consider City acquisition of all or a portion of the amendment site within his ownership. He has, however, expressed some concern regarding potential impacts to the value of the property resulting from the General Plan amendment.

This property owner is concerned that removing the existing Medium Low Density Residential (8.0 DU/AC) General Plan designation, which permits single-family detached residential on the site, would negatively affect the value of his property. As a practical matter, however, new residential development could not be built on the amendment site under the high voltage utility lines in any case. In addition, the location of the underground gas pipelines further limits future development potential. Therefore, highest residential use of the easement under the current General Plan designation would be limited to, at the most, expanding the yard areas of existing residential properties abutting the easement. When a property sale occurs, its value is typically based on the highest and best use that is practical on the property given its constraints. Property sales are most often based on their potential for use rather than just their General Plan land use designation. Subdivision of the property for use as residential yard areas would be consistent with the proposed Private Open Space designation.

The same property owner has also expressed concern that income-generating uses might be impacted as a result of changing the land use designation to Private OpenSpace. Currently, a wireless communication facility is located on the southerly end of the site and a Conditional Use Permit has recently been approved (CP03-014) to permit another wireless communication facility near Capitol Expressway on the northerly end of the easement. Council Policy No. 6-20 "Land Use Policy for Wireless Communication Facilities" specifies that: "Wireless communication antennae are allowed in all open space designations (i.e., Public Park/Open Space or Private Open Space), and in existing PG& E substations and corridors for high-tension lines exceeding 200 kv., provided that they conform to all other criteria, such as minimizing visual impacts, observing prescribed setbacks from residential uses and obtaining appropriate environmental clearance." Therefore the amendment, and the future development of the site into a linear park, would not by themselves preclude the expansion of existing wireless communication facilities, or the installation of additional ones.

The amendment could, however, minimally limit placement of those facilities to avoid blocking any future trail construction.

A final concern expressed by the property owner relates to security issues resulting from providing public access to the easement. The property owner has expressed concern that a trail would dead-end at Capitol Expressway until a pedestrian bridge can be constructed over Capitol Expressway. Prior to construction of the pedestrian bridge over Capitol Expressway a trail and bridge over Lower Silver Creek would provide an important direct connection between the East Dobern and Capitol-Goss neighborhoods. An interim trail could connect to Massar Avenue at its terminus at Capitol Expressway until the crossing of Capitol Expressway and connection to Lo Bue Park can be made on the north. Planned trail improvements are also intended to correct some existing nuisance problems, for example illegal dumping. Community members also complain that the power transmission line right-of-way between Dobern Avenue and Capitol Expressway is overgrown with vegetation and stress that the maintenance and appearance of the easement should be improved. Active use of the site as a linear park by the public could discourage illegal and nuisance activities from occurring and would encourage the public to take ownership of the site and report illegal and nuisance activities.

The envisioned uses allowed under the Private Open Space designation are supportive of and consistent with the surrounding residential development. Any future improvements within the easement would require full NAC and community involvement.

Policy Consistency

The proposed amendment is consistent with the *East Dobern/Capitol Goss Neighborhood Revitalization Plan* and the *East Valley /680 Communities Neighborhood Improvement Plan*. These *Plans* identify the need to construct a trail and linear open space to establish a pedestrian connection between the neighborhoods around Lo Bue Park north of Capitol Expressway, and the neighborhoods in the vicinity of Lake Cunningham Park to the south. In the near term this amendment would help facilitate construction of the footbridge over Lower Silver Creek, which will provide direct pedestrian access between the East Dobern Neighborhood, Capitol Park, and Goss Elementary School.

The proposed amendment is consistent with the Urban Conservation Major Strategy and Goal of the *San Jose 2020 General Plan* to “improve the quality of life and create a stable, mature community.” Urban Conservation Policy No. 2 specifies: “The City should encourage new development which enhances the desirable qualities of the community and existing neighborhoods.”

The proposed amendment is consistent with Parks and Recreation Policy No. 7, which specifies: “The City encourages the Santa Clara Valley Water District, school districts, the Pacific Gas and Electric Company and other public agencies and utilities to provide for appropriate recreational uses of their respective properties and rights-of-way. Consideration should be given to cooperative efforts between these entities and the City to develop parks, pedestrian and bicycle trails, other open space areas, and recreational facilities.” The amendment also supports Trails and Pathways Policy No. 5 which specifies: “The City should promote interagency planning of pathways, bike-ways and equestrian trails.” The proposed amendment is also consistent with the Department of Planning Building and Code Enforcement Policy entitled “Development Guidelines for Land in Proximity to High Pressure Natural Gas Pipelines.” This policy states the following with regards to uses within pipeline rights-of-way:

- No structure, either temporary or permanent should be placed within the right-of-way.
- Public park and open space uses such as playing fields, walkways, bicycle paths and golf courses, are appropriate uses.

Environmental Issues

The proposed General Plan amendment was analyzed in an initial study that resulted in a Mitigated Negative Declaration. The Negative Declaration was prepared and circulated to the public for review and comment. The initial study determined that the proposed land use change and text amendment would create a less than significant impact.

PUBLIC OUTREACH

On June 19, 2003, this General Plan amendment was presented to the East Valley/680 Communities NAC, which is actively supportive of it. The property owners and occupants within a 1,000-foot radius were also sent a newsletter regarding the General Plan community meeting that was held on June 24, 2003. They also received a notice of the public hearings to be held on the subject amendment before the Planning Commission in July and the City Council in August. In addition, the Department's web-site contains information regarding the General Plan process, amendments, staff reports, and hearing schedule. This site is available to any member of the public and contains the most current information regarding the status of the amendments.

Planning Staff has met with the concerned owner of the major portion of amendment site and the Montessori Academy facility. He has been given all existing information about the General Plan Amendment process and the potential effects of the amendment on his property. Staff has also discussed the amendment with an attorney representing the owner.

RECOMMENDATION

Planning staff recommends Public Park/Open Space on 0.2 acres and Private Open Space on 3 acres.

Attachments